

# TRANSMITTAL FORM

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Total Number of Pages in This Submission

Application Number	10/664,534
Filing Date	September 16, 2003
First Named Inventor	Hassan MOSTAFAVI
Art Unit	2857
Examiner Name	Desta, Elias
Attorney Docket Number	VM7010733002

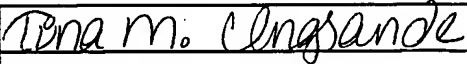
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<b>Remarks</b>		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Bingham McCutchen LLP		
Signature			
Printed Name	Gerald Chan		
Date	August 24, 2005	Reg. No.	51,541

## CERTIFICATE OF TRANSMISSION/MAILING

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PATENT  
Attorney Docket No. VM7010733002  
Varian No. 98-043-C3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:	)	Group Art Unit: 2857
	)	
Hassan MOSTAFAVI	)	Examiner: Desta, Elias
	)	
Serial No.: 10/664,534	)	Confirmation No.: 4278
	)	
Filed: September 16, 2003	)	
	)	
For: METHOD AND SYSTEM FOR	)	
PREDICTIVE PHYSIOLOGICAL GATING	)	
OF RADIATION THERAPY	)	

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

**MAIL STOP ISSUE FEE**

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Alexandria, VA 22313-1450

Sir:

Applicant wishes to thank the Examiner for allowing the above-identified application. According to the Notice of Allowability, the claimed invention is distinguishable from Heid because

the method includes measuring the first set of signal data of the physiological movement during the first period and correlating the first set with a second set through pattern matching. If the degree of deviation is exceeding from outside a given threshold, then the radiation is applied to the patient. Further the claimed invention uses autocorrelation and absolute difference function to match the patterns of the two data sets obtained from the patient where the degree of match is used to provide a better threshold comparison for administering the radiation.

Applicant wishes to clarify that independent claims 26 and 44 are allowable for what they recite. Applicant agrees with the Examiner's statements regarding "pattern matching" "autocorrelation"

function" "absolute difference function" "degree of match" "threshold" and "application of radiation" to the extent that the Examiner was referring to respective dependent claims that recite these respective limitations (e.g., claims 27-30, 32-35, and 46-49). In addition, the Notice of Allowability states that the claimed invention provides a method of therapeutic radiation. However, Applicant wishes to clarify that claims 26 and 44 each recites "radiation" which covers therapeutic radiation and diagnostic radiation (as is known in the art), and that therefore, the claimed invention should not be limited to therapeutic radiation. Further, regarding the Examiner's statement that "if the degree of deviation is exceeding from outside a given threshold, then the radiation is applied to the patient," Applicant wishes to clarify that while the claim(s) cover this embodiment, the claim(s) also cover the embodiments in which a degree of deviation is within a threshold, and the embodiments in which radiation is not applied to a patient.

If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

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Respectfully submitted,  
Bingham McCutchen LLP

Dated: August 24, 2005

By: 

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